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TRAINING AND TECHNICAL ASSISTANCE

Note by the Secretariat

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INTRODUCTION

1. The purpose of the training and technical assistance activities of the Commission is generally to disseminate information on international commercial law to lawyers, government officials, the commercial and trading community, judges, arbitrators and scholars, particularly from developing countries. In those activities, the particular focus is on the legal texts that have emanated from the work of UNCITRAL, although information is also provided on certain texts of other organizations relevant to international commercial law. A principal way in which dissemination of information about the work and legal texts of UNCITRAL takes place is through the holding of seminars focusing on those legal texts. Those seminars, as well as other UNCITRAL training and assistance activities, are designed to explain the background and salient features of the texts. They also provide an opportunity to consider the trade and investments benefits that can be derived from adopting trade legislation based on internationally-developed model laws and adhering to conventions that have been elaborated taking into account the interests and views of States from all regions, rather than, for example, modelling a legal regime for international trade solely on the national law of another State. Technical assistance takes the form in particular of consultations designed to assist Governments preparing legislation based on UNCITRAL model laws or considering adhesion to UNCITRAL conventions, including, for example, reviews of preparatory drafts of legislation from the viewpoint of UNCITRAL model laws and comments on reports of law reform commissions.

2. This note sets out activities of the Secretariat subsequent to the twenty-sixth session of the Commission (1993) and discusses possible future activities. It may be noted at the outset that there has been in the past year a continuing and increasing demand for training and technical assistance from the UNCITRAL Secretariat, particularly from developing countries, newly independent States, and States whose economies are in transition. This increasing demand reflects an upsurge in those States in law reform relating to international trade. The Secretariat has made every effort during that period to accommodate the increasing demand for training and technical assistance, but it was unable to meet more than a portion of the demand and the needs of those States, due to a severe shortage of financial and human resources.

I. UNCITRAL SEMINARS

3. As indicated below, since the previous session, the Secretariat organized seminars in a number of States. The lectures at UNCITRAL seminars provide information on the basic elements and rules of the major international uniform legal texts in the principal subject areas of international trade law, focusing on the conventions, model laws, contract rules and legal guides of UNCITRAL, but also providing information on important legal texts formulated by other international organizations involved in the harmonization of international trade law (e.g., the Uniform Customs and Practice for Documentary Credits and INCOTERMS, both formulated by the International Chamber of Commerce (ICC), and the Factoring, Financial Leasing, and Agency Conventions of the International Institute for the Unification of Private Law (UNIDROIT)). The main subject areas include international sale of goods, international transport and storage of goods, banking and international payments, Government purchasing, and international dispute settlement. (More detailed information concerning the content of a typical UNCITRAL seminar is presented in the annex to this note, in the form of a sample programme for a three-day seminar).

4. Lectures at UNCITRAL seminars are generally given by one or two members of the Secretariat, by experts from the host countries and occasionally by external consultants, who receive only a symbolic fee, if any at all. The seminars are attended by Government officials, in particular from interested Ministries such as Trade, Foreign Affairs, Justice and Transport, practicing lawyers, judges, officials from arbitral institutions, members of the commercial and trading community and academics. After the seminars, the UNCITRAL Secretariat remains in close contact with seminar participants in order to provide the host countries with the maximum possible support during the contemplation and legislative process relating to the adoption and use of UNCITRAL legal texts.

5. The following is a list of the seminars that have taken place since the previous session:

(a) Mongolia (23-24 September 1993), held in cooperation with the Government of Mongolia, and attended by approximately thirty participants;

(b) Karachi, Pakistan (29-30 September 1993), held in cooperation with the Training Institute of the Customs Authority and the Research Society for International Law, and attended by approximately 35 participants;

(c) Bishkek, Kyrghyzstan (5-7 October 1993), held in cooperation with the Government of Kyrghyzstan, and attended by approximately fifteen participants;

(d) Buenos Aires, Argentina (20-21 October 1993), held in cooperation with the Government of Argentina, and attended by approximately one hundred and thirty participants;

(e) Rio de Janeiro, Brazil (25-26 October 1993), lectures on UNCITRAL texts held in cooperation with Candido Mendes University and PETROBRAS, and attended by approximately sixty-five participants;

(f) Istanbul, Turkey (25-27 April 1994), held in cooperation with Marmara University and the Union of Turkish Chambers of Commerce, and attended by approximately fifty participants.

6. The following regional seminar has taken place since the previous session:

Colombo, 13-16 September 1993, at which time a four-day UNCITRAL seminar was held within the framework of the biennial conference of The Law Association for Asia and the Pacific (LAWASIA), LAWASIA'93.

II. OTHER SEMINARS, CONFERENCES, COURSES AND WORKSHOPS

7. Members of the UNCITRAL Secretariat have participated as speakers in the following seminars and courses where UNCITRAL legal texts were presented for examination and discussion:

Twelfth Course of the International Association of Law Libraries (Barcelona, 17-21 August 1993);

Pacific Economic Cooperation Council (PECC) Meeting on Harmonization of International Trade Law Instruments (Singapore, 9-10 September 1993);

First International Conference on Commercial Arbitration in Croatia and Slovenia, sponsored by the Croatian Chamber of Commerce (Zagreb, 8-10 December 1993);

Worldwide Electronic Commerce - Law Policy and Controls Conference sponsored by the American Bar Association (New York, 17-18 January 1994);

Thirty-third Session of the Asian-African Legal Consultative Committee (AALCC) (Tokyo, 17-21 January 1994);

"L'échange de données informatisé, Entreprises-Banques" sponsored by Forum du Droit et des Affaires (Paris, 26-27 January 1994);

Third lawyers' conference (SAARCLAW) of the South Asian Association for Regional Cooperation (SAARC) (New Delhi, 26-27 January 1994);

"Reforming and Modernizing Procurement Rules" sponsored by the Cairo Regional Centre for International Commercial Arbitration and the International Law Institute of Washington, DC (Cairo, 29-31 January 1994);

International Arbitration Conference sponsored by EKIURIS Ltd. (Company for Economic and Legal Studies) (Moscow, 31 January - 2 February 1994);

1994 Annual Survey of Letter of Credit Law and Practice, sponsored by the Institute of International Banking Law and Practice, Letter of Credit UPDATE, and the U.S. Council on International Banking (New York, 24-25 February 1994);

Slovak National Seminar in Support of Public Procurement sponsored by SIGMA and the Slovak Ministry of Transport, Communications and Public Works (Bratislava, 2-3 February 1994);

UN/ECE Working Party on Facilitation of International Trade Procedures (WP.4) (Geneva, 14-18 March 1994);

Colloquium on Cross-Border Insolvency, co-sponsored by the Secretariat of UNCITRAL and INSOL International (Vienna, 17-19 April 1994) (for further information, see A/CN.9/398);

Briefings in Support of Public Procurement Legislation, sponsored by the Public Procurement Unit of the Office of the Council of Ministers (Warsaw, 26-27 April 1994);

Arbitrators Symposium of the London Court of International Arbitration (Budapest, 29 April - 1 May 1994).

III. TECHNICAL ASSISTANCE

8. The Secretariat has continued to provide technical assistance to States that are considering adhesion to Conventions formulated by UNCITRAL and that are preparing legislation based on UNCITRAL's model laws. For example, consultations were held with Governments concerning technical questions that arose during their consideration of adhesion to the United Nations Convention

on Contracts for the International Sale of Goods, the United Nations Convention on the Limitation Period in the International Sale of Goods, and the United Nations Convention on the Carriage of Goods by Sea, 1978. Consultations were held for the purpose of providing technical assistance and information to States considering the UNCITRAL Model Laws on International Commercial Arbitration, International Credit Transfers, and Procurement of Goods and Construction. The Secretariat has responded to a considerable number of requests for review of draft legislation and for comments on reports of law-reform commissions relating to UNCITRAL legal texts, and requests for information concerning the establishment of arbitration centres using the UNCITRAL Arbitration Rules.

IV. FUTURE ACTIVITIES

A. Training and technical assistance

9. The Secretariat will make efforts to intensify even further its efforts to organize or co-sponsor seminars and symposia on international trade law, especially for developing countries and newly-independent States. For the remainder of 1994, seminars and legal-assistance briefing missions are being planned in Africa, Asia, Latin America, Eastern Europe and Asia. The Secretariat may be requested to provide such a briefing mission when, for example, a developing country or newly independent State is considering the role that UNCITRAL legal texts are to play in its law reform. It should be emphasized that the ability of the Secretariat to implement these plans is contingent upon the receipt of sufficient funds in the form of contributions to the UNCITRAL Trust Fund.

10. The Secretariat agreed to co-sponsor the three-month International Trade Law Post-Graduate Course to be organized in 1994 by the University Institute of European Studies and the International Training Centre of the International Labour Organization in Turin. In 1994, the fourth year in which the Course is being offered, 20 of the participants are expected to be from Italy and 26 from outside of Italy, with 16 of those being from developing countries. Issues of harmonization of international trade law and various items on the Commission's work programme are covered in the Course.

11. A two-day programme focusing on the United Nations Commission on International Trade Law is to take place in New York, 25-26 May 1994. That programme is organized by the Union Internationale des Avocats, sponsored by the American Bar Association, the Association of the Bar of the City of New York and the New York Country Lawyers Association, and hosted by the School of Law of Fordham University.

B. Coordination of training and technical assistance with other organizations

12. It may be noted that the General Assembly at its last session appealed to the United Nations Development Programme and other United Nations bodies responsible for development assistance to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission. It is the intention of the Secretariat to explore concrete steps that might be taken to establish such cooperation and coordination. At a time when there appears to be increased attention being paid to law reform as an integral component of development aid, cooperation and coordination, in particular with aid agencies within the United

Nations system, are essential to ensure the appropriate dissemination of information concerning the legal texts formulated by UNCITRAL when States receive law-reform assistance from entities within the United Nations system.

V. INTERNSHIP PROGRAMME

13. The internship programme is designed to enable persons who have obtained a law degree to serve as interns in the International Trade Law Branch of the Office of Legal Affairs, which functions as the Secretariat of the Commission. Interns are assigned specific tasks in connection with projects being worked on by the Secretariat. Persons participating in the programme are able to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. In addition, the Secretariat occasionally accommodates research in the Branch and in the UNCITRAL Law Library by scholars and legal practitioners for a limited period of time. Unfortunately, no funds are available to the Secretariat to assist interns to cover their travel or other expenses. Interns are often sponsored by an organization, university or a Government agency, or they meet their expenses from their own means. During the past year the Secretariat has received four interns, originating from Australia, China and Germany.

VI. FINANCIAL AND ADMINISTRATIVE CONSIDERATIONS

14. In particular in recent years, the Secretariat has endeavoured to devise a more extensive training and technical assistance programme. This has been in response to a considerably greater demand from States for training and assistance, as well as to the call of the Commission at the twentieth session (1987) for an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. [1] It was recognized that the holding of seminars and symposia in developing countries would increase the awareness of universally acceptable international trade law instruments that offer the benefit of removing impediments to international trade caused by disparities and inadequacies of national laws. In recent years, the need for increased training and technical assistance from UNCITRAL has been compounded by the appearance of a large number of countries whose economies are in transition, a process in which reform of laws affecting international trade plays an important part. Furthermore, the need for increased training and assistance activities centered on the UNCITRAL legal texts was given particular emphasis by speakers at the UNCITRAL Congress on International Trade Law, which was held as part of the twenty-fifth session of the Commission (1992).

15. As has been pointed out above, and in similar notes in previous years, the programme of training and assistance, in particular the holding of seminars, depends on the continued availability of sufficient financial resources. No funds for the travel expenses of lecturers or participants are provided for in the regular budget. As a result, expenses have to be met by voluntary contributions to the UNCITRAL Trust Fund for Symposia. Of particular value are contributions made to the UNCITRAL Trust Fund for Symposia on a multi-year basis, because they permit the Secretariat to

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[1] Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

plan and finance the programme without the need to solicit funds from potential donors for each individual activity. Such a contribution has been received from Canada. In addition, contributions from France and Switzerland have been used for the seminar programme. The Commission may wish to express its appreciation to those States and organizations that have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

16. The planning and implementation of UNCITRAL training and technical assistance activities have been hampered by the fact that no additional States have made contributions, some existing contributors have reduced the level of their contributions, and some other States have discontinued their contributions or have informed the Secretariat that contributions would be discontinued in the future. Particular attention may be drawn to the fact that the funds needed for efficient training and technical assistance in the area of international trade law and the dissemination of information concerning the legal texts prepared by the Commission are comparatively small amounts, but without those funds the relatively large expenditures of the Organization and its Member States on the preparation of the legal texts in question may fail to achieve the intended result of unification and harmonization of international trade law.

17. In view of the above, the Commission may again wish to appeal to all States to consider making contributions to the UNCITRAL Trust Fund for Symposia so as to enable the Secretariat to meet the increasing demands in developing countries and newly independent States for training and assistance. The Commission may also wish to appeal to aid agencies, particularly those in the United Nations System, for increased support, cooperation and coordination.

Annex

Sample Programme

UNCITRAL SEMINAR ON INTERNATIONAL TRADE LAW

First Day

09.00 - 10.00 Registration

Opening

10.00 - 10.30 Opening session and welcome address
10.30 - 11.15 UNCITRAL's history and activities
11.15 - 11.45 Break
11.45 - 12.30 Salient features of the United Nations Sales Convention
12.30 - 13.00 Comments by host-country specialists and discussion
13.00 - 14.30 Lunch
14.30 - 15.00 UNCITRAL Legal Guide on International Countertrade Transactions
15.00 - 15.30 Comments by host-country specialists and discussion
15.30 - 15.45 Break
15.45 - 16.45 Other conventions and uniform rules on the international sale of goods (e.g. Prescription Convention (UNCITRAL), Agency, Factoring and Financial Leasing Conventions (UNIDROIT), Convention on Law Applicable to Contracts for the International Sale of Goods (Hague Conference on Private International Law), INCOTERMS (ICC))
17.15 - 18.00 Comments by host-country specialists and discussion

Second Day

Construction contracts

10.00 - 10.45 UNCITRAL Legal Guide on Drawing up International Contracts for the Construction of Industrial Works
10.45 - 11.30 Comments by host-country specialists and discussion
11.30 - 12.00 Break

Government purchasing

12.00 - 12.30 UNCITRAL Model Law on Procurement; Guide to Enactment of the Model Law
12.30 - 13.00 Comments by host-country specialists and discussion
13.00 - 14.30 Lunch

Banking and payments

14.30 - 15.00	Salient features of the UNCITRAL Bills and Notes Convention
15.00 - 15.30	UNCITRAL Model Law on International Credit Transfers
15.30 - 16.00	Comments by host-country specialists and discussion
16.00 - 16.30	Break
16.30 - 17.15	Other legal texts on international payments and banking (e.g. Uniform Customs and Practice on Documentary Credits and Uniform Rules for Demand Guarantees (ICC), draft United Nations Convention on Independent Guarantees and Stand by Letters of Credit)
17.15 - 18.00	Comments by host-country specialists and discussion

Third day

Transport of goods

10.00 - 11.00	From The Hague to Hamburg (A comparison of the Hague Rules and the Hamburg Rules)
11.00 - 11.30	Comments by host-country specialists and discussion
11.30 - 12.00	Break
12.00 - 12.30	Salient features of the Terminal Operators Convention
12.30 - 13.00	Comments by host-country specialists and discussion
13.00 - 14.30	Lunch

Settlement of commercial disputes

14.30 - 15.00	UNCITRAL Arbitration and Conciliation Rules
15.00 - 15.45	UNCITRAL Arbitration Model Law; 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards
15.45 - 16.15	Practical steps to foster arbitration in host-country
16.15 - 16.45	Comments by host-country specialists and discussion
16.45 - 17.00	Break

Final conclusions

17.00 - 17.45	Conclusions drawn by host-country specialists and general discussion
17.45 - 18.00	Closing of seminar

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